United Nations CRC/C/OPSC/CZE/1

Convention on the Rights of the Child

Distr.: General
20 March 2018

Original: English
English, French and Spanish only

Committee on the Rights of the Child

# Report submitted by Czechia under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, due in 2015*, **

[Date received: 23 August 2017]

* The present document is being issued without formal editing.

** The annexes to the present document may be consulted on the Committee's website.

GE.18-04351(E)

*1804351*

Please recycle

# Contents


| | | Page |
|---|---|---|
| 1 | Introduction | 3 |
| 2 | General measures of implementation | 3 |
| 3 | Prevention | 9 |
| 4 | Prohibitions and related matters | 12 |
| 5 | Protection of the rights of victims | 16 |
| 6 | International assistance and cooperation | 21 |
| 7 | Data | 23 |
| Annexes | | 25 |

# 1. Introduction

1. The Initial Report of the Czech Republic was drafted with participation of the relevant state authorities. It was discussed with the members of the Committee on the Rights of the Child, which is an advisory body of the Czech Government Council for Human Rights, and with the Public Defender of Rights.

2. Under the Czech Constitution, The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Protocol) forms part of the Czech legal system. Where the law contradicts the Protocol, the Protocol supersedes the law. The Protocol has been translated into Czech and published in the official collection of international conventions available at the website of the Ministry of Interior under no. 74/2013 Collection of international treaties.

# 2. General measures of implementation

3. Under the Czech Constitution, international conventions supersede the law in terms of application. This means, that the general principles contained in the Convention on the Rights of the Child that forms part of the Czech legal system, are binding upon all public authorities. The child's best interest must be a primary consideration guiding all their activities concerning children. Special protection of children and young people is established in Article 32 of the Charter of Fundamental Rights and Freedoms, which forms part of the Czech constitutional order. The interests and wellbeing of children are safeguarded, for example in the Act on the Social and Legal Protection of Children, as the key criterion of social and legal protection of children. The Charter of Fundamental Rights and Freedoms, which forms part of the constitutional system of the Czech Republic and therefore supersedes the law, also prohibits discrimination on the basis of sex, race, colour of skin, language, faith and religion, political or other opinion, national or social origin, nationality or ethnicity, property, birth or other status.

4. The Protocol is primarily implemented by defining all conducts listed in the Protocol as criminal offences in the Czech Criminal Code. The Criminal Code came into effect on 1 January 2010 as Act No. 40/2009 Coll. Types of conduct that should be criminalised under the Protocol are included among the criminal offences listed in Chapter II (criminal offences against freedom, personal and privacy rights, and confidentiality of correspondence), Chapter III (criminal offences against human dignity in the sexual sphere), and Chapter IV (crimes against family and children). The criminal offences are specified in Annex no. 1 hereto and in Part 4 Prohibitions and related matters.

5. Important judicial decision related to the sale of children, child prostitution and child pornography is, for example, the decision of the Supreme Court of 2012.[1] The Supreme Court decided that anyone will be criminally liable when committing the criminal offence of the trafficking in human beings on the child even if they do not use violence, threat of violence, error of the child, distress or addiction of the child. In the case of the trafficking in human beings committed against a child, commercial exploitation of a child is always a criminal offence, regardless of the methods used to commit such crime as required for trafficking of adults. Therefore it is not relevant whether the commercial abuse of a child took place with the child's express consent or knowledge of the content and meaning of the agreement made with its author in respect of such exploitation. Another decision of the Supreme Court, issued in 2004,[2] refers directly to the Protocol. The Supreme Court mentioned Article 2 (c) of the Protocol to correctly define the term "child pornography". It concluded that a pornographic work depicting a child "means also any photograph of, for example, a naked child in provocative positions exposing sexual parts in order to induce sexual satisfaction, photographs of children engaged in real or simulated explicit sexual intercourse, or other similar sexually provocative photographs of children". In another

[1] Decision of the Supreme Court of 14 December 2011, file no. 3 Tdo 105/2011.
[2] Decision of the Supreme Court of 28 December 2004, file no. 7 Tdo 1077/2004.

decision, the Supreme Court defined the term "pornographic work" and "child pornography". It specified that pornographic work is any work that "affects and stimulates the sexual instinct in a particularly intensive and intrusive manner, exceeds the limits of sexual decency generally accepted by society, offends the sense of sexual decency in an unacceptable way, and induces the feeling of embarrassment". On the other hand, child pornography does not have to have the same intensity that is usually associated with the so-called "hard pornography", i.e. to contain violence or deviant sexual activities".[3]

6. In the Czech Republic there are several ministries responsible for the implementation of the Protocol. The issues addressed in the Protocol are addressed particularly by the Ministry of Interior (prevention), the Ministry of Justice (criminal prosecution of criminal offences and punishment of criminal offences, adoption procedures), and the Ministry of Labour and Social Affairs (social and legal protection of children, organisation of adoptions and other forms of alternative family care). The role of coordinator in the area of children's rights in general is entrusted to the Ministry of Labour and Social Affairs. This means that the ministry should oversee all the rights established in the Convention on the Rights of the Child and its protocols, and reflect them in its strategies.

7. The role of chief coordinator in the area of trafficking in human beings has been exercised by the Ministry of Interior since 2003. The Ministry of Interior has established the Inter-Ministerial Coordination Group for Combating Trafficking in Human Beings (Inter-Ministerial Group). As the criminal offence of trafficking in human beings also covers the sale of children as defined in the Protocol (with the exception of seeking consent for adoption of a child in an unacceptable way), the Inter-Ministerial Group is also responsible for the implementation with a part of the obligations arising from the Protocol. The Inter-Ministerial Group was established in 2008 and meets at least twice a year. The group is chaired by the minister of interior. The Inter-Ministerial Group's permanent members are representatives of the Ministry of Interior, Refugee Facilities Administration, Ministry of Justice, Ministry of Education, Youth and Sports, Ministry of Health, Ministry of Foreign Affairs, Ministry of Labour and Social Affairs, the Supreme Public Prosecutor's Office, Institute of Criminology and Social Prevention, Police of the Czech Republic, Council of the Czech Government for National Minorities, Council of the Czech Government for Human Rights, Council of the Czech Government for Equal Opportunities of Men and Women, non-governmental non-profit organisations dealing with trafficking in human beings, and the International Organization for Migration. The Inter-Ministerial Group submits an annual report on trafficking in human beings in the Czech Republic. In 2016 it had an ad hoc subgroup focused on trafficking in children, composed of representatives of selected departments and agencies, which helped to define the tasks relevant to trafficking in children laid down in the 2016–2019 National Strategy to Combat Trafficking in Human Beings.

## 2.1 Strategies

8. The Czech Republic does not have a single strategy focused only on the elimination of the sale of children, child prostitution and child pornography. The principal document focused on the rights of the child in general is the National Strategy to Protect Children's Rights from 2012, which has four transversal priorities: child's participation, elimination of discrimination and of the unequal approach to children, right to family care, and ensuring the quality of life for children and families. The strategy contains 17 sub-objectives. Objective no. 11 addresses the processes to protect and support the prosperity of children. The key activities that should lead to accomplishment of this objective include the implementation of the mechanisms to protect children's rights in specific situations (migrants, children of foreigners, etc.) and implementation of special approaches and system measures in the care for children exposed to an increased risk of socio/pathological phenomena.

9. The National Strategy to Protect Children's Rights makes reference only to the Convention on the Rights of a Child, not to the Protocol. It does not mention the Protocol

[3] Decision of the Supreme Court of 12 September 2012, file no. 8 Tdo 1002/2012.

directly; however, it contains two references to Article 21 of the Convention, which is one of the articles expanded by the Protocol. The first reference is made under objective no. 9 Support for Alternative Family Care, and the second under objective no. 16 Quality of Work, Education and Standards. The latter objective involves the task to create and put into practice systematic training programmes for all specialists working with children. The Action Plan for the Fulfilment of the National Strategy to Protect Children's Rights 2012–2015 specifies this task by applying it only on the employees of the social and legal protection of children authorities, and judges. The training for judges is not compulsory and the obligatory part applies only to the creation of an educational module. More information on training is provided below.

10. The Action Plan for the Fulfilment of the National Strategy to Protect Children's Rights 2012–2015 implements the National Strategy to Protect Children's Rights. Some of its objectives and tasks are focused on situations related to the Protocol, such as the task to make a comprehensive analysis of the system of care for vulnerable children, including a detailed analysis of the existing network of services, which should improve the services and the state's ability to identify and help endangered children. This task was accomplished by conducting a sociodemographic analysis in 2013. This analysis was used as a background for the proposal for optimisation of the management and funding of care for vulnerable children and families, and particularly of the activities of social and legal protection of children authorities and planning of services aimed at work with families and children. The sociodemographic analysis showed the distribution of vulnerable children in the Czech Republic, i.e. it identified the regions, districts and municipalities where the situation of children, young people and families is poor. The risk turns out to be much higher in the border regions, where there is a strong correlation between families experiencing poverty and social exclusion, and children at risk.

11. To reduce the numbers of children from the Czech Republic placed in intercountry adoption was another task in this Action Plan. A working group for intercountry adoptions was established in 2014 and recommended several steps to be taken in order to improve the system. Subsequently, the conditions of intercountry adoptions were changed. Now, a child may be only placed in intercountry adoption after all the possibilities of the national alternative family care system have failed. Another task was to draft an inter-ministerial methodology for work with children of migrants, unaccompanied minors, children who are in contact with the police, etc. This inter-ministerial methodology has not been created so far and therefore only partial methodologies are available — such as the methodological manual for work with migrant children, unaccompanied minors, and children in contact with the police, issued by the Ministry of Labour and Social Affairs. The role of social guardian has been established in the Act on Social and Legal Protection of Children to fulfil one of the tasks in this Action Plan. This social guardianship involves measures to eliminate the defects of mental, physical and social development in children. The task to create an inter-ministerial methodology for work with children running away from institutional care has not been accomplished so far, and the work on the methodology is ongoing.

12. The area of trafficking in human beings is addressed by the National Strategy to Combat Trafficking in Human Beings, adopted by the government on a regular basis since 2003. The current strategy was adopted for the period 2016–2019. Selected parts of this strategy are listed in Annex no. 5. A part of this strategy is directly aimed at combating trafficking in children. The priority objective in the area of trafficking in children is to review, update and add key documents addressing cooperation and procedures applied by public authorities in the area of trafficking in children and repatriation of unaccompanied minors. It also formulates three specific tasks focused directly on trafficking in children, namely: to update the Handbook on trafficking in children — recommended procedures from 2011 to be adopted by the public authorities; to create a methodology for repatriation of persons under 18 years of age; and to enhance regional cooperation between the social and legal protection of children authorities and the Police of the Czech Republic. Completion of the tasks defined in national strategies to combat trafficking in human beings is traditionally monitored by the above-mentioned Inter-Ministerial Group for Combating Trafficking in Human Beings, and also in the annual reports on trafficking in human beings in the Czech Republic.

13. The National Crime Prevention Strategy for the Czech Republic for the period 2016 to 2020 includes a chapter titled Assistance to Victims of Crime, Activities Targeted at Children and Youth. The chapter contains 15 specific tasks, namely: to pay attention to the most endangered and particularly vulnerable victims; to develop the area of primary prevention, particularly in relation to children; to continue operating the National Coordination Mechanism for search for missing children; to assume responsibility for the oversight of the European emergency line for missing children and to provide funding for European hotlines and helplines in the Czech Republic[4]; to continue implementing the Programme of Support and Protection of Victims of Trafficking in Human Beings and sustain prevention activities in the area of trafficking in human beings; and to design and implement a long-term protection programme to assist foreigners. The findings of public authorities, police and non-governmental organizations regarding the worsening situation and perspectives of children and young people in many regions and localities in the Czech Republic have led the Ministry of Interior to prepare the document titled "Analysis of the Situation of Children and Young People Endangered by Crime and Criminal Phenomena", which was submitted to the government for information in 2014. The analysis contains 31 recommendations, such as to improve IT education and add more information on safe use of social networks, include information on new forms of violence committed against children and by children (cyber bullying, cyberstalking, cyber grooming) in training materials for future teachers, pay more attention to the style of communication between the police, child victims and their families, increase public awareness of the existence and mission of the Ztracené dítě (Lost Child) helpline, and promote the National Coordination Mechanism of Search for Missing Children. The Crime Prevention Action Plan for the period 2016 to 2020 tasks the bodies involved with monitoring the fulfilment of the recommendations resulting from the analyses.

14. The National Strategy for Primary Prevention of Risk Behaviour of Children and Young People for the period 2013–2018 is a strategic document focused on prevention. The tasks arising from this strategy are being accomplished on an ongoing basis. In 2016, the Ministry of Education, Youth and Sports coordinated and methodologically directed regional school coordinators of prevention, prevention methodologists at psychological and education counselling centres, and school prevention methodologists, and organised meetings and seminars for these experts. These methodologic management activities led to the publication of a new methodologic instruction to prevent and address bullying at schools and school institutions. The area of primary prevention of risk behaviour at schools and school institutions has been supported by grants and subsidies. The accomplishment of this strategy will be evaluated in 2018 when the strategy for the next period will be prepared.

15. The Social Housing Policy of the Czech Republic 2015–2025 is a strategic document that identifies victims of criminal offences including children as one of the priority groups that should be provided with accessible or emergency housing by the government. Since 2016, the Ministry of Labour and Social Affairs has coordinated and managed 16 municipalities involved in the project titled "Social housing — methodological and information support to social agendas". The aim of this project, which draws upon the Social Housing Policy, is to carry out pilot testing of the social housing system in practice, implement good practices from foreign countries, empower municipalities in the area of provision of social housing, support social work activities, improve cooperation between the key stakeholders, and spread information on the benefits of social housing.

## 2.2 Education

16. The Police of the Czech Republic are trained in the area of trafficking in human beings within their basic professional training. Police experts on trafficking in human beings attend qualification courses. From 2014 the qualification training course for the foreign police service on fight against trafficking in human beings takes place at the Higher Police School and Secondary Police School of the Ministry of Interior in Holešov. One of

[4] Telephone numbers 116 000, 116 111 and 116 006.

the tasks defined in the National Strategy to Combat Trafficking in Human Beings in the Czech Republic for the period 2012–2015, which tackled trafficking in human beings and identification of probable victims, was to ensure training of police officers going on foreign police missions. This task is being fulfilled on an ongoing basis by means of the course for police officers sent to international operations (IPOC). Courses in English are given by lecturers of the Police of the Czech Republic. The training for new members of international peace operations takes place once a year and is attended by 16 to 20 police officers.

17. Consular officers sent on international missions are regularly trained on identification of potential victims of trafficking in human beings and on the assistance and protection system by the officers of the Ministry of Interior within pre-departure training, and also receive contact information of relevant institutions and non-governmental non-profit organisations.

18. Prosecuting attorneys and judges attend trainings and seminars within the Academy of Justice, where trafficking in human beings and related problems are regularly on the agenda. The topics of the seminars organised in 2016 were the Crime Victims Act, trafficking in human beings and criminal offences associated with the refugee crisis, trafficking in human beings associated with migration, juvenile delinquency, criminal offences against public morals, and criminal offences against human dignity in the sexual sphere. The topics of the seminars held in 2015 were the following: juvenile delinquency; trafficking in human beings; children at risk; and rights of the aggrieved persons (and victims). In previous years, the seminars addressed topics such as trafficking in human beings for sexual exploitation, criminal offences against public morals, and criminal offences against children. These seminars are voluntary and are usually attended by 40 to 90 participants. Ensuring compulsory training of judicial trainees was one of the tasks of the National Strategy to Combat Trafficking in Human Beings in the Czech Republic for the period 2012–2015. This task was accomplished in part. The courses were created but attendance is not compulsory.

19. Social workers ensuring social and legal protection of children at municipal authorities, specialised in protection of mistreated and abused children, have to pass a specific qualification exam. This examination is compulsory and the social workers can attend a preparatory course that also covers the topic of trafficking in children and commercial exploitation of children. This topic is taught in three sections. The first presents international conventions on children's rights, including the Convention on the Rights of the Child and its optional protocols. The second section addresses protection and assistance to children at risk of the CAN (Child Abuse and Neglect) syndrome. The third section provides information on penal law, including the Crime Victims Act. Social workers also undergo compulsory annual general training on trafficking in children. School prevention methodologists must complete a specialised study programme over the course of 250 hours. Training programmes addressing primary prevention of risk behaviour are offered by the National Institute for Lifelong Learning within its courses for teachers. These training programmes are not compulsory. Statistical data on the numbers of participating teachers are not available.

## 2.3 Funding

20. The resources designated for funding of prevention and repression of these criminal offences are not allocated specifically and therefore cannot be specified precisely. The implementation of individual measures is funded within the respective area programmes. The Ministry of Justice allocates funds for prevention of all types of crime. The budget of the Crime Prevention Programme of the Ministry of Justice for 2016 was CZK 6,595,000. The Ministry of Interior funds the Programme of Support and Protection of Victims of Trafficking in Human Beings through a contract made with specialised non-governmental

organisations.[5] The allocated amount was CZK 1,112,449 in 2013, CZK 1,152,448 in 2014, CZK 1,126,108 in 2015 and CZK 1,175,568 in 2016. Since 2016, an extra amount of CZK 2,000,000 a year has been allocated for the operation of three telephone lines for missing and other children and victims of crime mentioned in paragraph 13. The Ministry of Labour and Social Affairs allocates a specific non-investment subsidy to municipalities to ensure social and legal protection of children. In 2016, the amount of this subsidy was CZK 1.1 billion.

## 2.4 Civil society

21. The non-governmental sector is being involved in the implementation of the Protocol through various forms of cooperation with state administration bodies and independent activities supported by the state. The representatives of specialised organisations take part in the Inter-Ministerial Group, and other bodies, to combat trafficking in human beings, and also participate in training. Non-governmental organisations and other persons may anonymously report suspected commercial sexual exploitation of children to the respective authority of social and legal protection of children. Non-governmental organisations may also be entrusted with social and legal protection of children and with providing of social services. A total of 406 non-governmental organisations have been entrusted with tasks related to social and legal protection of children, such as identification of endangered children at whom protection is targeted. They provide social services such as specialised social counselling, counselling for crime victims, emergency telephone assistance, field programmes, etc. Non-governmental organisations also operate European hotlines and helplines, such as already mentioned helpline for missing and endangered children[6], child helpline[7], and a helpline for victims of crime.[8] These activities are supported with funds from the state budget as mentioned above.

## 2.5 Independent authority for human rights

22. The Public Defender of Rights is an independent body ensuring the compliance with human rights in the Czech Republic. The Public Defender of Rights fulfils the Paris Principles in many respects. The defender's competences and powers are determined in the Act on the Public Defender of Rights. His/her task is to ensure that state governance complies with good governance principles and thus he/she contributes to the protection of fundamental rights and freedoms. The defender conducts independent research, gives recommendations on how to remove shortcomings, and requires authorities to comply with these recommendations. He/she may also advise complainants on how to protect their rights. The authorities must cooperate with the defender and take the respective corrective measures. If they fail to do so, the defender informs the superior authority, the government or the public. The defender also supervises places where persons are deprived of their freedoms according to the Optional Protocol to the Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment. As an authority combatting discrimination, the defender assists persons affected by discrimination and protects their rights, conducts research, and issues reports and recommendations in respect of discrimination. The defender also monitors protection of the rights of foreigners and treatment of foreigners in expulsion procedures.

23. The defender is elected for six years by the Chamber of Deputies, to which he/she is accountable. The defender is independent of any other body and has his/her own office that is financially independent, operates permanently, and performs respective tasks. The defender informs the Chamber of Deputies of his/her activities in regular quarterly and

[5] Caritas of the Archdiocese in Prague — Magdala project, http://praha.charita.cz/sluzby/magdala/, La Strada, http://www.strada.cz/, Diaconia of the Evangelical Church of Czech Brethren, http://www.diakonie.cz/en/.

[6] Linka Ztracené (Lost Child Hotline): http://linkaztracenedite.cz/?page_id=48.

[7] Linka bezpečí (Safety Line): http://www.linkabezpeci.cz/?gclid=COPOsriyo9ICFaQW0wodztoINA.

[8] Helpline for victims of crime and domestic violence operated by the organisation Bílý kruh bezpečí, z. s. http://www.116006.cz/.

annual reports. All this and other information is published on the defender's website. On the basis of its activities, the defender recommends changes to legislation, governmental policies and administrative procedures. The defender frequently gives his/her opinion on the proposed governmental policies and legislative measures from the perspective of human rights protection. The defender also collaborates with academic institutions and non-governmental organisations, organises expert conferences, and issues expert opinions and manuals.

24. With regard to the issues that are within the scope of the Protocol, the defender monitors mainly the activities of the social and legal protection of children authorities, which organise adoptions and foster care. The defender deals with cases where these bodies have made a mistake, such as when a social worker forced parents to release their child for adoption; after investigating the case, the child was returned to the care of his/her parents.[9] Another case from 2015[10] concerned a discharge of a child from hospital — the hospital only allowed the child to leave after approval by the social and legal protection of children authority. However, such approval must not be required for hospital discharge and therefore the defender concluded that the authority acted incorrectly. The situation was remedied after the social workers were informed of the defender's opinion.

## 3. Prevention

25. The social and legal protection of children authorities pay special attention to children at risk. The respective authority evaluates the information on the child's situation and determines whether the child falls into one of the categories of children at risk, which include victims of trafficking and commercial sexual exploitation. The respective authorities target children who do not go to school regularly, consume alcohol and addictive substances, earn their living by prostituting themselves, or have committed a crime. Information on these children may be obtained from several sources. Public authorities, schools and hospitals have an obligation to inform the social and legal protection of children authorities whenever they encounter such a child. Subsequently, after evaluating the situation, the respective authority creates an individual child protection plan outlining how the given child and his/her family should be approached in the near future. The plan defines the target situation in the family, steps that might lead to a solution of individual problems in the family, agreement on who will carry out these steps, and assessment whether and which of the steps have been successfully implemented.

26. Identification of foreign children is usually based on the information on identity provided by the child. The police and the social and legal protection of children authorities verify the child's identity in various databases. In exceptional cases, an X-ray of the child's left hand is used to verify age. The social and legal protection of children authorities also cooperate with foreign embassies and foreign bodies of social and legal protection of children in order to obtain more information on the child. This does not apply in cases where the child seeks international protection.

27. The System of Timely Intervention was an important prevention mechanism. This system ensured sending of reports on children to the social and legal protection of children authorities. It was an international project, the aim of which was to prevent the risk of development or continuation of criminal behaviour in children and young people, to protect children against crime, mistreatment and neglect, and to change the bureaucratic nature of the work with child clients and their families. The System of Timely Intervention was built around three principles: teamwork among the entities involved (representatives of the social and legal protection of children authorities, the Police of the Czech Republic, judicial bodies, employment agencies, healthcare facilities, schools and school institutions and non-governmental non-profit organisations) which come into contact with children at risk and their families and work with them (Youth Teams); interconnected corrective measures leading to resocialisation of child clients and their closest social environment; and a unified

[9] Case from 2000-2003, file no.: 4464/2002/VOP/TL. Collection of the opinions of the Public Defender of Rights. Rodina a dítě (Family and Child). 2007, pp. 110–138.

[10] Case from 2015, file no.: 4002/2015/VOP.

communication environment, enabling fast sharing of information, communication, control over activities performed by individual entities, and maintenance of documental files by the social and legal protection of children authorities. The amended Act on Social and Legal Protection of Children changed the manner in which the Timely Intervention System is implemented, as its practical operation was passed from the Ministry of Interior to the Ministry of Labour and Social Affairs. At present, an information system for social and legal protection of children is being developed, but so far it has not been connected to the other institutions.

28. The Programme of Support and Protection of Victims of Trafficking in Human Beings[11] managed by the Ministry of Interior is a programme that aims to support the victims of trafficking in human beings, safeguard protection of their human rights and dignity, motivate the victims to cooperate with authorities involved in criminal proceedings, and to arrange for voluntary repatriation of the victims. Social counselling for potential victims of trafficking in human beings provided by low-threshold counselling centres run by specialised non-governmental organisations[12] is one of the preventive activities of this programme. Specialised counselling has been provided mainly to persons from Bulgaria, Romania and Ukraine. Other assisted persons were from Moldavia, Slovakia, Russia and Uzbekistan. In recent years, the awareness of the programme has increased through field work and callouts, and the programme has become accessible for more victims. A total of 37 callouts in the field were performed to identify and inform potential victims across the territory of the Czech Republic. Most of the contacted persons were EU citizens, mainly from Bulgaria and Romania. Most of the third-country citizens were from Ukraine.

29. In the area of prevention of criminal behaviour, the Ministry of Interior focuses on providing information to citizens on the possibilities of protection against crime and of new types of criminal behaviour. In 2012 to 2015, the main focus was on crime prevention related to virtual communication. From 2011, the Ministry of Interior was partner of the E-Synergie project of the Virtual Communication Risk Prevention Centre of the Faculty of Education of the Palacký University in Olomouc. The objective was to systematically reduce the risks associated with virtual communication in the young generation.[13] The Ministry of Interior provided specialised lecturing support to the project. The objective of the project was to create a functional scientific and research network connecting educational, research and business organisations focused on high-risk virtual communication in the cyberspace, and on related criminal offences. The network functionally connects the theoretical and practical areas (education, interventions, addressing crime-related issues, implementation of knowledge in the commercial sphere). The network also organised training and educational activities leading to improved cooperation between individual members of the network and to improved know-how. Two students of the Faculty of Education of the Palacký University in Olomouc took an internship at the offices of the Police of the Czech Republic, followed by discussions about the Police's activities in the area of information crime, legislation regulating cyberspace, and information criminality involving children. Furthermore, a special seminar "Selected Aspects of Information Criminality" was organised as part of the project, which was attended by 60 police officers working in the area of information criminality at the regional directorates of the Czech Police.

30. During the project implementation a counselling centre was opened at the Palacký University in Olomouc in 2010 under the auspices of the Centre for Online Communication Risk, which is also the guarantor and operator of the E-Security project. Since then, the counselling centre has registered more than 1,500 cases of misuse of the internet (cyber

[11] The Programme of Support and Protection on Victims of Human Trafficking is designated for victims of trafficking in persons over 18 years of age, i.e. for EU citizens trafficked in the Czech Republic, for third party citizens trafficked in the territory of the Czech Republic, and for Czech citizens trafficked in the territory of the Czech Republic and abroad. In justified cases, the Programme also caters for relatives of victims included in the Programme, such as minors.

[12] Caritas of the Archdiocese in Prague — Magdala project, website http://praha.charita.cz/sluzby/magdala/, La Strada, website http://www.strada.cz/, Diaconia of the Evangelical Church of Czech Brethren, website http://www.diakonie.cz/en/.

[13] https://www.e-bezpeci.cz/index.php/in-english.

bullying, sexting, cyber grooming, misuse of personal data, etc.). Many of these cases were referred to the Police of the Czech Republic. The counselling services are provided anonymously and free of charge. In 2015, the counselling centre handled 292 cases and received an award for important projects carried out in the Olomouc Region. The centre receives financial support from the city of Olomouc, the Ministry of Interior, the Olomouc region, and by the companies O2 Czech Republic, Seznam.cz, Google, and other institutions. The project also led to a more extensive cooperation between the Ministry of Interior, the Police of the Czech Republic, and Seznam.cz, Vodafone and Google. The project finished in 2014.

31. The activities of the E-Synergy project are now being continued and its outcomes are used by the nationwide E-Security project[14] focused on prevention, education, research, intervention, and awareness of risk behaviour on the internet and related phenomena. The project is implemented by the same Centre as the E-Synergy project. The project is not limited in time and focuses on dangerous internet phenomena that endanger both children and adult internet users. It focuses mainly on cyber bullying and sexting, cyber grooming, cyber stalking and stalking, risks of social networks, hoax and spam messages, and misuse of personal data in the environment of electronic media. The core activities of the project are field work with different target groups, lectures, preventive educational events, etc. The target groups of the E-Security project are pupils and students, teachers, persons involved in prevention of pathological social phenomena, prevention methodologists, police officers, crime prevention managers, educators, specialists of the bodies of social and legal protection of children and parents. The lectures map specific dangerous phenomena, possibilities of prevention and defence against perpetrators. The issue is presented through model situations and real case studies.

32. In 2015, the Ministry of Interior supported the campaign of the La Strada organisation for prevention of trafficking in human beings. The exact amount of allocation is not known. The Ministry of Interior can only distribute the amounts allocated to it within the Crime Prevention Programme. The aim was to increase awareness of trafficking in human beings in the Czech Republic. A video on this topic was disseminated on the internet, because that is where clients most often look for services and job opportunities, as shown by the latest trends. The reach of this campaign targeted at the broad public is the key element of this good practice. In the future, campaigns should be focused on specific professions, vulnerable groups of citizens and the general public. The Ministry of Interior allocates funds within the Criminality Prevention Programme. The amounts allocated to date have been CZK 45,000 in 2013, CZK 45,000 in 2014, CZK 75,000 in 2015, and CZK 55,000 in 2016. The Ministry's expenditure within the Programme of Support and Protection of Victims of Trafficking in Human Beings was CZK 1,126,108 in 2015.

33. Several campaigns aimed at prevention of trafficking in human beings have been launched in recent years. The campaign against trafficking in human beings aimed at clients of prostitution in the Czech Republic was organised by the International Organization for Migration in Prague in cooperation with the Ministry of Interior, non-governmental non-profit organisations La Strada Czech Republic and Caritas Czech Republic, and the British Embassy in Prague. The allocation granted to this project by the Ministry of Interior was CZK 949,171. The project took place in the period from 2007 to 2008. The objective of the campaign was to increase awareness of trafficking in human beings and provide information on non-governmental organisations supporting trafficked persons. The project involved designing post-cards and posters and launching a website with detailed information on trafficking in human beings, an e-mail contact for questions and answers, and a discussion forum. The materials were posted in public transport and public spaces and also on selected border crossings with Germany and Austria. All materials, websites and telephone helplines were available in Czech, German and English language. The website was frequently visited. The informative and preventive objective of the project was therefore evaluated as successfully met.

[14] https://www.e-bezpeci.cz/index.php/in-english.

# 4. Prohibitions and related matters

## 4.1 Criminal offences and criminal liability

34. The sale of children, child prostitution, and child pornography are criminal offences under the Czech Criminal Code. The sale of children and child prostitution are prosecuted as the criminal offence of trafficking in human beings. Trafficking in children is committed by "whoever forces, procures, hires, incites, entices, transports, conceals, detains, adopts or consigns a child to be used by another for sexual intercourse or other forms of sexual abuse or harassment, or for production of pornographic works, extraction of tissue, cell, or organs from his/her body, service in the armed forces, slavery or servitude, or forced labour or other forms of exploitation, or who profits from such conduct". Such a person shall be sentenced to imprisonment for two to eighteen years. Child prostitution is also prosecuted as the criminal offence of sexual abuse and seduction to sexual intercourse. The existence of the criminal offence of sexual abuse protect children under the age of 15 years from all forms of sexual activities, including consensual sexual intercourse without payment, as any sexual intercourse with a person under the age 15 of years is punishable under the Criminal Code in the Czech Republic. The criminal offence of seduction to sexual intercourse criminalises the act of offering, promising, or providing monetary reward, benefits or advantages to a child or to another person for sexual intercourse with a child, masturbation of a child, their indecent exposure, or other comparable conduct for the purpose of sexual satisfaction. In these cases the child is offered a counter-value for sexual services, which constitutes child prostitution. Illegal adoptions are prosecuted as the criminal offence of entrusting a child to another person, which prosecutes any conduct that entrusts for a consideration a child to another person for the purpose of adoption or for another similar purpose. Whoever commits this criminal offence shall be sentenced to imprisonment for up to ten years. Act of producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography is punishable under the criminal offence of production and other disposal with child pornography and the criminal offence of abuse of a child for production of pornography. The former criminal offence is punishable with up to eight years of imprisonment, the latter with one to eight years of imprisonment. Other criminal offences that cover a conduct associated with the sale of children, child prostitution, and child pornography are illegal confinement, illegal restraint, abduction, extortion, oppression, rape, sexual duress, solicitation, participation in pornographic performance, establishment of unauthorised contact with a child, abduction of a child or a person suffering from mental disorder, and endangering a child's care. Unauthorised arrangement of adoption or foster care is sanctioned as an administrative offence under the Act on Social and Legal Protection of Children. The respective provisions are specified in Annex no. 1. Scope for the length of imprisonment is set out at each crime. The sex of the victim or offender is not decisive in criminal law.

35. The sanctions of imprisonment established in the Criminal Code are reduced by one half in juvenile persons (from 15 to 18 years of age) who committed a wrongdoing[15]. Persons under 15 years of age are not criminally liable. The upper limit of the sanction of imprisonment for juvenile offenders must not exceed five years and the lower limit must not exceed one year. A sanction of five to ten years of imprisonment may be imposed in specific cases under very strict conditions.

36. Specific aggravating and mitigating circumstances for specific criminal offences are also listed in Annex no. 1. General aggravating circumstances include committing a criminal offence to the harm of a child, close person, person pregnant, ill, disabled, of high age, or impuissant.

37. It generally applies that criminal liability for a criminal offence shall expire upon the lapse of the period of limitation. The period of limitation depends on the maximum sentence of imprisonment imposed for the respective criminal offence, and may last from three to twenty years. For example, for the criminal offence of trafficking in human beings

[15] Criminal offences committed by persons of 15 to 18 years of age are called wrongdoings (provinění) and the punishments imposed on them are called penal measures (trestní opatření).

the period of limitation is fifteen years. More details are provided in Annex no. 1. The period of limitation for persons between 15 and 18 years of age is reduced. The period of limitation for such person in the case of trafficking in human beings is five years. The period of time during which a victim of trafficking in human beings or of any of criminal offences against human dignity in sexual sphere was younger than 18 years is not counted in the period of limitation. This means that the period of limitation only starts to run at the moment when the victim reached 18 years of age.

38. Under the basic characteristics of the merits of a criminal offence, preparation is criminal only in the case of trafficking in human beings; attempt is criminal in all criminal offences. Participation is always criminal if the offender at least attempted to commit the criminal offence. General aggravating and general mitigating circumstances are specified in the Criminal Code. Examples of general mitigating circumstances are situations when the offender committed the criminal offence under duress or compulsion, or in the age close to the age of juveniles, which usually means at 19 or up to 20 years of age, and in exceptional cases up to 21 years of age, when this is justified by their intellectual and ethical development level. On the other hand, general aggravating circumstances include situations when the offender committed a crime to the harm of a child or led another person, especially a child, to commit a criminal offence. However, the list is only demonstrative, which means that other aggravating and mitigating circumstances may be established depending on the circumstances of each case.

39. Legal entities are liable for all criminal offences whose punishment is required by the Protocol.

40. Promotion of the above-mentioned criminal offences may be prosecuted as a form of participation in a criminal offence, provided that it leads to an individually identified criminal offence and the potential offender, and that there has been at least an attempt to commit such a criminal offence. In such case the penalties for participation are the same as for committing the crime. If the promotion is of a more general nature, it can be prosecuted as incitement to criminal offence or approval of criminal offence, punished with up to two and one year of imprisonment, respectively.

41. The criminal offences in question are not subject to the principle of protection and universality, which ensure punishment for criminal offences without relation to the Czech Republic. This means that the general provisions governing local and personal applicability of the Criminal Code shall be applied. Generally it applies that criminality of an act is assessed pursuant to the law of the Czech Republic when it was committed in the territory of the Czech Republic. A criminal offence shall be considered as committed in the territory of the Czech Republic if the offender committed the act here, either entirely or in part, even though the violation or endangering of an interest protected by the criminal law occurred or was supposed to occur abroad, either entirely or in part, or if the offender violated or endangered an interest protected by the Criminal Code in Czech territory, or if such consequence was supposed to occur, even partially, even though the act was committed abroad. Participation is committed in the territory of the Czech Republic if the act of the offender was committed within Czech territory or if the accomplice of an act committed abroad partially acted within Czech territory. If the accomplice acted in the territory of the Czech Republic, the law of the Czech Republic shall apply to the participation, regardless of whether the act of the offender is criminal abroad. The law of the Czech Republic shall also apply to assessment of criminality of an act committed abroad by a citizen of the Czech Republic or a person with no nationality, who has been granted a permanent residence in its territory. The law of the Czech Republic shall also apply to assessment of criminality of an act committed abroad against a Czech national or a person without a nationality, who has been granted permanent residence in the territory of the Czech Republic, if the act is criminal in the place of its commission, or if the place of its commission is not subject to any criminal jurisdiction. The above provisions mean that the laws of the Czech Republic are not applicable to criminal offences specified in Article 3(1) of the Protocol in cases where the supposed offender is a person with habitual residence in its territory.

## 4.2 Sentences and confiscation of instrumentalities and proceeds

42. As for the imposition of sentences, the court shall consider whether the offender acquired or attempted to acquire material profit; if it is possible with regard to the offender's property and personal situation, the court shall consider the amount of the material profit and impose as an aggregate sentence or in addition to another sentence some of the punishments that is to affect offender's property.

43. Confiscation of a thing that was used for committing a criminal offence mentioned in the Protocol and proceeds from these criminal offences, as required in Article 7 of the Protocol, is ensured through several institutes of criminal law. These are confiscation of a thing, confiscation of property, pecuniary penalty, and protective measures of forfeiture of a thing or seizure of a thing substantial for the criminal proceedings. The court shall obligatorily impose the sentence of confiscation of a thing which was obtained by the offender through criminal act or as a reward for such act. The court may also impose confiscation of an item that was used for committing a criminal offence, or that was intended for committing a criminal offence, or that was, even partially, acquired, by the offender for the thing obtained through criminal act or as a reward for such act. Seizure of a thing is possible in cases where the facts indicate that such thing is an instrument or proceeds of crime. Seizure of a thing allows the court to withdraw instruments and proceeds of crime belonging to an offender who cannot be prosecuted or sentenced.

44. The court may, with regard to circumstances of a case and relations of an offender, impose a sentence of confiscation of property or its defined portion, if it sentences the offender to an exceptional sentence of imprisonment or for an especially serious felony by which has the offender gained or tried to gain for him/herself or another person a proprietary benefit. Without these conditions, the court may impose confiscation of property only in the event that the Criminal Code allows imposing this sentence for a specific criminal offence, such as in the case of trafficking in human beings, entrusting of a child to another, or production and other disposal with child pornography. Confiscation of property may be imposed as an individual penalty if with regard to the nature and gravity of the committed criminal offence and to the character and circumstances of the offender is imposition of another penalty not necessary.

45. A pecuniary penalty shall be imposed in daily rates (20 to 730 daily rates); a daily rate shall amount to at least CZK 100 and at most CZK 50,000. The number of daily rates shall the court determine with regard to the nature and gravity of the committed criminal offence. The amount of one daily rate shall be determined with regard to the personal and property circumstances of the offender. Where the court imposes a pecuniary penalty, it also determines a substitute punishment of imprisonment for up to four years in cases where the pecuniary penalty is not exercised in the respective time limit.

46. Forfeiture of a thing is a protective measure that can be used to withdraw items belonging to an offender or third parties. Forfeiture of a thing allows withdrawing of instruments and proceeds of crime belonging to an offender who cannot be prosecuted or sentenced, or if it endangers safety of persons or property, eventually safety of society, or of there is a threat that it shall be used to commit a crime. The court can forfeit a thing of a person other than the offender if the thing was obtained through criminal act or as a reward for such an act. Another protective measure is forfeiture of a substitute value. The court may forfeit a thing of a substitute value to a person who destroys, damages or otherwise disvalues a thing that could be forfeited.

47. Anyone who has an item substantial for criminal proceedings in his or her possession is obliged to present it upon a request to the court, public prosecutor or police authority. If it is necessary to secure item for the purposes of the criminal proceedings, the person is obliged to surrender the item upon a request to these authorities. Surrender of an item may be ordered by the presiding judge and in pre-trial proceedings by the public prosecutor or police authority. If the item essential for criminal proceedings is not surrendered by the person who has it in his possession, it may be removed upon an order of the presiding judge, and in pre-trial proceedings upon an order of the public prosecutor or a police authority. The police authority must have a previous consent of the public prosecutor

for issuing such an order, without the previous consent may the police authority issue the order only if the previous consent could not be obtained and the matter cannot be delayed.

48. In the case of real estate, financial resources in a bank account, booked securities and intangible items, where the circumstances indicate that the given assets are intended for committing a criminal offence, or that they were used to commit a criminal offence, or are the proceeds of a criminal activity, the presiding judge and in pre-trial proceedings the public prosecutor or police authority may decide to seize such assets. The resolution on seizure of assets prohibits the person from transferring the assets to another party or encumbering it after the resolution is announced. The persons whose assets were seized may request for revocation or restriction of seizure at any time. If it is not possible to achieve the seizure of things that are intended for committing a criminal offence or that have been used to commit a criminal offence, or that are proceeds of a criminal activity, an equivalent value corresponding to their value, even partially, may be seized in their stead.

49. The Criminal Procedure Code also establishes measures used specifically to secure the execution of a financial penalty or the execution of a sentence of confiscation of property. The decision on seizure of property for these purposes may be imposed after the criminal prosecution has been initiated, if an imposition of this type of penalty can be expected. The principle of seizure means a prohibition of any activities that might cause loss to the secured assets, specifically their transfer or encumbering; in the case of tangible things, it also means a prohibition of depreciation or destruction thereof. The decision is issued by the court and in pre-trial proceedings by the public prosecutor.

50. As for the requests of other parties for freezing and confiscation of instrumentalities and proceeds of crime related to the criminal offences covered by the Protocol, it applies that the Czech law allows recognition and exercise of a decision issued in a foreign state, which imposed, among another things, confiscation of property or an item, instruments used to commit a criminal offence, or proceeds of such criminal offence.

51. An amendment to the Czech Criminal Code which came into effect in March 2017, allows confiscation of other types of property. In relation to a conviction of a person, it will be possible not only to withdraw any material profit resulting from the criminal offence, but also other item that probably derives from a criminal offence. The new protective measure of seizure a part of property under the Criminal Code requires a lower standard of evidence concerning the origin of the property. This means the fact that the property derives from crime does not have to be proved. It is sufficient that the facts were deemed proven on the basis of available evidence that a part of such property derives from criminal conduct. The court may impose this measure upon offenders who were found guilty of an intentional criminal offence for which the upper limit of punishment is at least four years of imprisonment, including the criminal offence of production and other disposal of child pornography.

## 4.3 Adoption

52. The adoption process entails a number of guarantees protecting the rights of the interested parties and specifically children under the age of 18 years. The Civil Code and the related procedural rules contain guarantees which ensure that rules on informed and voluntary consent to the adoption of a child will be respected. The consent of a parent is given through a personal statement. Before a parent makes such statement, the court shall duly advise him/her on the nature and consequences of the statement of consent and the nature of adoption. The statement must comply with the general requirements for legal action (for example, it must not be given under coercion). The act also emphasises the necessity not to accept only a written consent given beforehand, but to ascertain within the adoption procedure the up-to-date opinion of the parent, as well as in cases where such parent is not a participant in a proceeding. If the consent is subject to a condition or if it is temporary, it is disregarded. The consent of a parent to the adoption of his child is required even where the parent has not yet acquired full legal capacity. In such cases, the parent's guardian may not act on his/her behalf. A parent who has not yet reached the age of 16 may not give approval of a child's adoption. Consent to adoption may be withdrawn within three

months from the date on which it was given. In several exceptional cases, it may be withdrawn later. If consent to adoption was given for a particular adoptive parent and the motion for adoption is withdrawn or rejected, the consent shall cease to be in force. Consent to adoption shall always cease to be in force if the adoption does not take place within six years from the date on which the consent was given. The act protects biological mothers and fathers by defining that the mother of an adopted child may give consent to the adoption no earlier than six weeks after the child's birth. The father of an adopted child may give consent to the adoption even before the expiration of the above period, but no earlier than after birth. If the consent of the father or mother was given before that, it is disregarded. The act allows adoption's cancellation. Generally adoption may not be cancelled after three years from the decision on adoption. This does not apply if the adoption contradicts the law.

53. Under the legislative rules of the adoption process, the relevant authority of the state thoroughly examines the ability of the adoptive parents-to-be to accept the child and comply with their new obligations. The process of arrangement of adoption is defined in the Act on the Social and Legal Protection of Children. Mediation of adoption is a statutory pre-requisite for adoption. The social and legal protection of children authorities select specific persons who are suitable to become adoptive parents of a given child and ensure personal contact between the child and this person. However, mediation of adoption is not conducted when the parents have given consent in advance to adoption for a particular adoptive parent, or where the motion for adoption was filed by the spouse of the child's parent, surviving spouse of the parent, or adoptive parent, or where the motion for adoption was filed by a relative of the child or another person close to the child who is not excluded from adoption. Judgments in matter of immediate and pre-adoptive care are always issued by the court; however, the social and legal protection of children authority must always be informed on the actual placement of the child to the adoptive parents-to-be, even if it did not mediate for the adoption. The Civil Code prescribes that no person may obtain any improper financial advantage arising from a child being given up for adoption. However, this does not mean that it is not possible to request remuneration of necessary expenses incurred by the adoptive parents-to-be in relation to the preparation of adoption, etc. The mediation of adoption itself is reserved to the state and exercised through the social and legal protection of children authorities, and must not be executed by anybody else. Persons involved in illegal mediation of adoption may be imposed a fine of up to CZK 200,000. The above-specified interests are also protected under the Criminal Code, which defines criminal offences of entrusting a child to another person, oppression, extortion, abduction of a child or a person suffering from a mental disorder, fraud or forgery and alteration of public documents.

54. The above-described legal protection is supplemented with the protection provided by the non-profit sector, where selected organisations offer support, mainly to future mothers in distress. This support may prevent pathological behaviour of mothers who find themselves in a difficult situation. The aim is to reduce the pressure on finding a solution and to support free choice of the woman. These organisations play an important role and may help ensure that the adoption process takes place in accordance with the law, respecting the rights of the biological mother and her child, and prevents further harm that may occur during this mentally challenging process.

55. In 2013, 504 children were adopted, of which 56 were intercountry adoptions; in 2014, 300 children were adopted, of which 56 were intercountry adoptions; in 2015, 302 children were adopted, of which 36 were intercountry adoptions; and in 2016, 377 children were adopted. The possibility of arranging an intercountry adoption is opened six months after a failed arrangement of adoption within the Czech Republic. One administrative delict of unauthorised arrangement of foster care was recorded in 2013, and one case of unauthorised adoption was committed in 2014.

## 5. Protection of the rights of victims

56. The authorities involved in criminal proceedings and other public authorities, entities assisting to crime victims, healthcare providers, experts, interpreters, defence

lawyers and media are obliged to respect the personality and dignity of the victim, to approach the victim politely and with care, and to accommodate the victim if possible. They interact with the victim with regard to his/her age, health condition including psychological state, his/her intellectual maturity and cultural identity in a way that does not cause deepening of the injury to the victim by the criminal offence, or cause secondary injury.

57. Children are understood to be especially vulnerable victims, regardless of whether or not there is an increased risk of secondary injury in the given case. Especially vulnerable victims have a number of special rights, such as the right to free professional assistance, right to prevention of contact of the victim with the offender, right to be interviewed in an especially sensitive manner by a person with the relevant training of the same or opposite gender according to the victim's choice, right to be interviewed in a way that it need not be repeated later, or right to select an interpreter of the same or opposite gender.

58. The Crime Victims Act grants all victims the following rights that are also important in terms of assistance and support provided to child victims of the crimes listed in the Protocol. The victims have the right to be asked questions leading to their intimate area only if it is essential for clarification of facts vital to criminal proceedings. These questions must be asked with abundant caution and in terms of content in an exhaustive manner, so that it would not be necessary to repeat the interview. The formulation of such questions must be adjusted to the victim's age, personal experience and mental state. Victims have the right at any time to object to the direction of the question. They also have the right to accompaniment by a fiduciary to actions of criminal proceedings and to submittal of an explanation. A fiduciary is a natural person qualified to perform legal acts chosen by the victim. The fiduciary provides the victim with necessary, mainly psychological, help, and he/she may also be the victim's proxy. At any stage of the criminal proceedings, the victim has the right to make a declaration of what impact the committed criminal offence has had on his/her life. The victim has the right to monetary assistance to cover the costs affiliated with providing qualified psychotherapy and physiotherapy or other professional service aimed at rectifying the occurring non-material harm (typically in criminal offences against human dignity in sexual sphere), or to cover the worsened social situation caused to the victim by the criminal offence (typically in criminal offences causing harm to the victim's health). The victim may raise his/her claims for compensation of damages or non-material harm in criminal proceedings against the offender; in such cases the victim has the position of an aggrieved person in the proceedings. Aggrieved persons under the age of 18 years are entitled to legal assistance provided by their agent free of charge, regardless of the proprietary conditions of such persons. The costs of the services provided by such agent chosen by the aggrieved person or appointed by the court shall be borne by the state.

59. Since the Crime Victims Act entered into force, 1,177 proceedings on provision of monetary assistance have been initiated, the final decision on provision of monetary assistance was issued in 803 cases, and monetary assistance to the total amount of CZK 29,002,634 was granted to 336 applicants.

60. On 1 April 2017, the amended Crime Victims Act came into force, which prescribes when there is doubt about whether a victim is an especially vulnerable, it must be treated as such. The second change establishes the obligation to interrogate especially vulnerable victims (including children) in pre-trial proceedings at facilities that are specifically adjusted for this purpose whenever this is objectively possible.

61. Provision of information to victims is regulated in the Crime Victims Act. The providers of assistance to crime victims shall provide the victim information on the services they provide to victims, on the rights of the victim laid down in the Crime Victims Act, on the rights granted to the victim as an aggrieved person under the Criminal Procedure Code, and of the course of criminal proceedings and the standing of a victim as an aggrieved person and witness therein. Upon the victim's request, the victim may be provided with further information, for example on the release or escape of the accused person from custody or prison.

62. Protection of the identity of victims of the criminal offences listed in the Protocol is ensured through general protection of child victims and through protection of victims of the

enumerated criminal offences. Personal data and privacy of persons under the age of 18 years are especially protected. In the pre-trial proceedings the authorities involved in criminal proceedings must not disclose information eligible for identification of an aggrieved person or witness. The Criminal Procedure Code also establishes that nobody may disclose information that enables identification of an aggrieved person who is under the age of 18. The same protection is granted to aggrieved person above the age of 18 against who was committed a criminal offence of trafficking in human beings, any of the criminal offences against human dignity in sexual sphere, abduction of a child or person suffering from a mental disorder, and other criminal offences. It is prohibited to disclose photographs, audiovisual records or other information about the course of trial hearing or a public session which would enable identification of the aggrieved person. The final judgement stating the name and address of the aggrieved person must not be published in news media. A failure to observe these provisions may be sanctioned as an administrative delict, with a pecuniary sanction of up to one million CZK or as a criminal offence of illicit disposal with of personal data.

63. The security of the victims and persons close to them is ensured in several ways. A preliminary measure may be imposed upon the accused person where there is a reasonable fear that he/she will repeat the criminal offence, or finish the criminal offence he/she has attempted or prepared. Such preliminary measures may include for example the prohibition to contact the victims or persons close to the victim[16], or prohibition to enter residence inhabited by the victim and its immediate surroundings, and prohibition to remain within such residence. The measure of the last resort is taking to custody.

64. Protection of witnesses from intimidation or other serious threat is ensured through the institute of witness protection. Should the ascertained circumstances indicate that the witness or persons close to them appear to be under a threat of bodily harm or any other serious risk of violation of their fundamental rights in relation to their testimony, the authorities involved in criminal proceedings shall adopt measures to conceal the identity and appearance of the witness. In such cases, the name and surname and other personal information shall not be recorded in the protocol, but are kept separately from the criminal file and only authorities involved in criminal proceedings may become acquainted with such details in the given case. The witness shall be instructed about this right. Furthermore, the institute of special protection of a witness provides personal protection, relocation of the protected person, and assistance to the protected person for the purpose of his/her social inclusion in the new environment or concealment of the identity of the protected person.

65. The victim's age is important for the investigation only when the age is a requirement for the establishment of criminal liability or any of the aggravating circumstances. For the initiation of the investigation the uncertainty about the victim's age is not an obstacle. Until proven otherwise, the person shall be considered to be below the age of 18 years. If it is impossible to ascertain the age, the accused person cannot be convicted of a criminal offence committed against a child, but only of a criminal offence committed against an adult person. However, in cases when the offender's conduct is motivated by his/her assumption that he/she is committing a criminal offence against a child, such offender shall be liable for a criminal offence committed against a child, despite the fact that the victim is not a child, because the intention of such offender is to commit a criminal offence against a child, by which he/she has jeopardised public interest.

66. For the purpose of the criminal offence of production and other disposal of child pornography, pornographic work is understood as any work displaying or otherwise using a child or a person that appears to be a child. Therefore, in an individual case it need not be ascertained beyond all doubt that a person featured in the pornographic work was really under 18 years of age or not, as it is sufficient that he/she appeared to be such a person.

67. Witnesses are obliged to testify. A person related to the accused person in direct lineage, his/her sibling, adoptive parent, adoptive child, spouse, partner or companion has the right to refuse testimony as a witness. If a person under 18 years of age is questioned as

[16] Prohibition means prohibition of any contact with or search of the person, also through electronic communication networks and similar means.

a witness about circumstances, reviving of which in memory could, in respect of his/her age, adversely affect his/her intellectual and moral development, the questioning shall be conducted with special care. A social and legal protection of children authority or another person experienced in education of young people shall be invited to the interrogation. If it can contribute to correct execution of the questioning, parents may also be included. An interview of especially vulnerable victims or child witnesses in pre-trial proceedings should be conducted by a person with the relevant training if possible. If the victim is a child, a person with the relevant training shall always conduct the interview in pre-trial proceedings with the exception of cases when the action cannot be delayed and it is not possible to find a trained person. Questioning of a child witness takes place in a special interrogation room, except for cases where it is not convenient to transport the child. This may be the case for example in autistic children, children living in a children's residential care, etc. Questioning in a special interrogation room is also recorded on a video.

68. The Police of the Czech Republic have specialists trained for work with children. These police officers investigate criminal offences committed against children and they undergo lifelong training. Police officers specialised in work with children undergo annual instructional and methodological training where the most important procedural questions and processes are discussed. This year, methodologists working with victims of crime will be trained on how to instruct the statutory representatives of children about the rights of child victims.

69. Police authorities have several methodologies related to treatment of children. A methodology for questioning children in special interrogation rooms was prepared to improve the work of the police with children.[17] This is accompanied with an instruction video recording on DVD, where a psychologist shows how to use interrogation aids and how to approach children. A methodology for instructing children before a questioning is being prepared and will be accompanied by a film. The aim is to provide instructions to every child according to its mental development, while respecting its position in the procedure. Police officers should instruct the child in a form that allows the child to understand the content of information and at the same is sufficient for the orientation in the criminal proceedings. The next part of the methodology will be focused on establishing contact with the child before any police activity with the child.

70. The right to defence is guaranteed. If an especially vulnerable victim does not wish to have immediate visual contact with a person suspected of committing a criminal offence or a person against whom the criminal proceedings are being conducted, necessary measures will be applied, especially with application of audiovisual technologies. However, the Crime Victims Act specifies that such measures must not interfere with the right to defence. The right to be considered innocent until a convicting sentence is issued by the court is one of the basic principles of criminal proceedings. This principle is laid down in the Criminal Procedure Code and also in the Charter of Fundamental Rights and Freedoms, which is part of the Constitution. The Charter of Fundamental Rights and Freedoms also lays down the right to make a statement in respect of all evidence produced. However, persons under 18 years of age may be asked questions only through an authority involved in criminal proceedings. In 2013, the Supreme Court stated in its resolution[18] that the accused person's right to question witnesses or have them questioned is limited by another fundamental right, which guarantees special protection to children and juvenile persons. A questioning before the initiation of the prosecution of a given offender carried out in the presence of the judge is a valid procedural act because the participation of the judge guarantees protection of all rights, including the right to defence.

71. Assistance to crime victims is provided by persons and organisations listed in a register of providers of assistance to crime victims. At present, there are 358 listed persons and organisations across the entire territory. They offer psychological counselling, social counselling, legal assistance, providing of legal information and restorative programs. The list includes solicitors and non-governmental organisations. The Probation and Mediation

[17] At present, there are 64 interrogation rooms in the Czech Republic.

[18] Resolution of the Supreme Court of 20 November 2013, file no. 5 Tdo 1241/2013.

Service is a governmental organisation assisting and supporting victims, with offices (74 centres and 4 branches) in all districts. Its services are free of charge.

72. Organisations providing assistance to victims of the criminal offences mentioned in the Protocol are: Bílý kruh bezpečí, Člověk v tísni (People in Need); Dětské krizové centrum (Emergency Centre for Children); In Iustitia; La Strada Czech Republic; Persefona; proFem; Respondeo; Strop; Centres of the Probation and Mediation Service; and others. Most of these organisations provide field services and some also provide residential services, such as the Asylum Home for Mothers with Children. Organisations assisting victims of trafficking in human beings are La Strada Czech Republic, the Magdala project of the Caritas of the Archdiocese in Prague, Diaconia of the Evangelical Church of Czech Brethren, and the International Organization for Migration. The Emergency Centre for Children focuses on children and is entrusted with their social and legal protection. It identifies children to whom social and legal protection should be provided, helps parents resolve problems related to care for children, provides assistance to crime victims and is also a non-state healthcare facility.

73. Any entity in the Czech Republic may contact the authorities involved in criminal proceedings if it suffers attacks because of its activities. Extortion, physical attacks, and other attacks are sanctioned as general criminal offences by penal law. Furthermore it is possible to provide special protection to witnesses and other persons obviously endangered with bodily harm or other serious threats in relation to the criminal proceedings. As the organisations focusing on protection of children in the Czech Republic do not face extensive attacks, no special protective measures are adopted across the board to ensure their security, unless it is required in the given case.

74. A comprehensive evaluation of the Programme of Support and Protection of Victims of Trafficking in Human Beings referred to above was one of the tasks of the National Strategy to Combat Trafficking in Human Beings in the Czech Republic for the period 2012–2015. This task has already been accomplished. The evaluation of the Programme of Support and Protection of Victims of Trafficking in Human Beings was conducted by external organisation La Strada, o.p.s. within the project Optimisation of Interdisciplinary Cooperation in the Area of Protection of Trafficked Persons and Prevention. Two large analyses were conducted within this project, focused on interdisciplinary cooperation in the area of the fight against trafficking in human beings and on provision of social services to victims of trafficking in human beings.

75. Crime victims and aggrieved persons have the right to compensation of damage caused by the criminal offence. Apart from the regular course of the criminal proceedings, criminal law also provides for the so-called diversions. Diversion is a general term for legal institutes that simplify criminal proceedings under certain conditions that bring benefits to the accused person as well as to the aggrieved person. The benefits for the accused persons are a faster and less costly procedure and the possibility to avoid the sentence. The benefit for the aggrieved persons is compensation of damage. All types of diversions rely on compensation of damage or non-material harm as one of the conditions for the adoption of diversion, or as one of the circumstances considered by the respective body when deciding on a diversion. The diversions in the Czech criminal proceedings are agreement on guilt and punishment, conditional suspension of submission of a motion for punishment, conditional discontinuation of criminal prosecution, settlement and withdrawal from criminal prosecution. For example, the condition for agreement on guilt and punishment is a statement of the accused person that he/she committed the criminal offence for which he/she is being prosecuted, while the public prosecutor must protect the interests of the aggrieved persons when making the agreement. The right of a child to compensation of non-material harm is not conditioned by prior adjudication of criminal liability of the persons responsible of exploitation of the child. This means that the aggrieved persons may claim non-material harm at the civil court even if the offender was not found guilty of committing a criminal offence.

## 6. International assistance and cooperation

76. The Czech Republic is a member of all important organisations and groups specialised in the fight against trafficking in human beings, such as the United Nations (UN), the Organization for Security and Cooperation in Europe (OSCE), the European Union, and the Council of Europe. The obligations arising from the membership laid down in international documents are duly reflected in the Czech legislation on an ongoing basis. Apart from the provisions of international treaties listed below, this includes also the OSCE Action Plan to Combat Trafficking in Human Beings and its Amendment from 2013 and Directive 2011/36/EU of the European Parliament and of the Council.

77. The essential convention on prevention, revealing, investigation, prosecution and punishment of offences covered by the Protocol at regional level is the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (also known as the Lanzarote Convention). It establishes measures aimed at prevention of exploitation and abuse, ensures protection of child victims during trial proceedings, and combats "sex tourism" by establishing that individuals can be prosecuted for some criminal offences even when the act is committed abroad. The parties to the Lanzarote Convention undertake to cooperate in order to prevent and combat sexual exploitation and sexual abuse of children, protect and support the victims, and conduct investigations and proceedings relevant to the criminal offences covered by the Lanzarote Convention. The Czech Republic ratified the Lanzarote Convention on 2 May 2016 and the Convention came into effect on 1 September 2016. Nowadays, Czech legislation fully complies with the Convention.

78. These issues are also addressed by the Council of Europe Convention on Action against Trafficking in Human Beings which also applies to children. Committing any of the criminal offences mentioned in this Convention against a child is considered to be an aggravating circumstance. The Czech Republic signed this Convention on 2 May 2016 and ratified it on 29 March 2017. Signing and ratification of the Convention was one of the tasks stipulated in the National Strategy to Combat Trafficking in Human Beings in the Czech Republic for the period 2012–2015.

79. Criminal offences against children are also addressed by the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The Czech Republic signed this convention and this protocol in 2002, the convention was ratified in 2013, and the protocol in 2014. The Czech Republic also implements Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and the OSCE Action Plan to Combat Trafficking in Human Beings and its 2013 Addendum.

80. According to International Labour Organization Convention No. 182 on the Worst Forms of Child Labour concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which was ratified by the Czech Republic, the term "worst forms of child labour" also includes the use, procuring or offering of a child for prostitution, for the production of pornography, or for pornographic performances. Although this convention does not explicitly speak about related criminal offences, it obliges the parties to adopt all measures necessary to ensure effective implementation and enforcement of the provisions implementing the convention, including the definition and application of criminal sanctions.

81. The central judicial authorities for international cooperation in criminal proceedings aiming at gathering evidence for the criminal proceedings are the Ministry of Justice and, in the pre-trial proceedings, the Supreme Public Prosecutor's Office. As for cases of child pornography on the internet, a large number of requests for legal assistance are directed to the USA. Personal consultations of these cases between the Czech Republic and USA take place regularly, at least once a year. To increase the quality of requests for legal assistance, the International department of the Supreme Public Prosecutor's Office in cooperation with the US Department of Justice prepared a template of request for legal assistance directed to the USA and a template of request for electronic data. As for cooperation within the EU,

public prosecutors and judges use the European Judicial Network and Eurojust to discuss the cases requiring international legal assistance. The Probation and Mediation Service is an active member of the Confederation of European Probation, focused mainly on the development of restorative justice in an international context. The specialists of the Probation and Mediation Service participate in international conferences, mainly in Europe.

82. The Ministry of Interior negotiates and concludes bilateral international treaties on police cooperation, which fall within its competence. The purpose of these international treaties is to provide a legal framework for the efficient cooperation between the police authorities of the Czech Republic and of the other contracting state, and enhance international cooperation in the area of prevention, identification, investigation, prosecution and punishment of criminal offences listed therein. They promote cooperation to combat sexual abuse of children and child pornography, trafficking in human beings, solicitation, illegal trafficking in human organs and tissues, organised crime and other. Several international treaties on police cooperation have come into force since 2013 (see Annex no. 7).

83. Legal assistance in criminal proceedings is provided and requested on the basis of bilateral and multilateral treaties on legal assistance adopted within the UN, the Council of Europe, the European Union, or on the basis of the principle of mutuality. States that are parties to conventions on extradition have the obligation to extradite persons who are criminally prosecuted by the respective authorities of the other party, or to extradite persons who are requested by these authorities to serve the sentence of imprisonment. It is necessary to bear in mind that a citizen of the Czech Republic cannot be extradited without his/her consent. Another condition of extradition under these international agreements is the condition of double criminality. This means that the criminal offence in question must also be defined as a criminal offence in legislation of the other party to the international treaty under which the request for extradition is made. As the respective criminal offences are contained in Czech legislation, they can be certainly considered to be criminal offences allowing extradition under any of the conventions on extradition to which the Czech Republic is a party. Proposals for international treaties on extradition that are now being negotiated and concluded by the Czech Republic cover the criminal offences discussed above.[19] An overview of bilateral and multilateral international treaties on international judicial cooperation in criminal matters, on the basis of which extradition can be requested for the respective criminal offences, provided that the condition of double criminality is met, is provided in Annex no. 6.

84. The exact numbers of requests sent abroad and obtained from abroad related to the area discussed herein, and specific data on wanted persons accused of the above-mentioned criminal offences, are not available, as the Ministry of Justice does not keep statistical records that would enable extracting data on extradited persons accused of specific criminal offences. This option will be available in the new system that is being prepared.

85. Given their specific nature, requests for legal assistance in the area discussed herein are always handled as a priority. In cases related to child pornography, the evidence often consists of electronic communication, which must be requested from abroad because the provider of electronic communication services has its registered office in a foreign country. In such cases it is necessary to meet the requirements of the requested state in terms of double criminality and procedural conditions for collection of evidence in a foreign country. Evidences in these matters are most often requested from the USA. The cooperation in this area is evaluated positively. Before the request for legal assistance is sent, the respective electronic data are backed up by the service providers through the contact point at the National Centre against Organised Crime of the Police of the Czech Republic. This practice is also evaluated positively. If a request for legal assistance is processed in the Czech Republic, the condition of double criminality is only examined for legal actions where it is required by Czech legislation.

[19] Eg. the Agreement between the Czech Republic and the Hong Kong Special Administrative Region of the People´s Republic of China on Transfer of Sentenced Persons.

86. Czech legislation allows for recognition and exercise of a decision issued in a foreign country in relation to a criminal offence where such decision imposes the sentence of confiscation of property, thing or other assets, including the instruments used to commit criminal conduct, or proceeds of such conduct. Similarly, it is possible to pass on the execution of a decision issued in the Czech Republic imposing the sentence of confiscation of property, thing or another value.

87. The Czech Republic is party to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. The central authority according to this convention is the Office for International Legal Protection of Children.

88. In the long term, the Czech Republic supports initiatives to enhance actions against trafficking in children at international fora. In the autumn of 2014, the Czech Republic supported the resolution of the 69th session of the UN General Assembly "Trafficking in women and girls" submitted by the Philippines, which reflects the efforts of the international community to prevent and combat this phenomenon. In June 2014, the United Nations Human Rights Council at its 26th session renewed the mandate of the Special Rapporteur on trafficking in persons, especially women and children. This resolution was also supported by the Czech Republic.

## 7. Data

89. Data relevant to the implementation of the Protocol are collected and evaluated by several ministries and authorities. Annex no. 2 contains statistical data on criminal offences related to the sale of children, child prostitution, and child pornography, and the offenders. The information is collected from the Ministry of Interior, the Police of the Czech Republic, public prosecutor's offices, and the Ministry of Justice. The tables indicate the numbers of criminal offences ascertained by the Police of the Czech Republic. They also show the number of criminally prosecuted persons accused from the above-specified criminal offences.[20] The tables also show the numbers of persons against whom summary pre-trial proceedings were initiated. Summary pre-trial proceedings are an institute within criminal proceedings that enables accelerating the pre-trial phase of the criminal proceedings in the case of less serious criminal offences. In summary pre-trial proceedings, the suspect has the same rights as an accused person. The tables indicate the number of defendants and the number of persons in whom a motion for punishment has been filed. The motion for punishment is a way of termination of summary pre-trial proceedings and it is a form of simplified indictment. The tables also indicate the number of motions for the approval of an agreement on guilt and punishment for cases of trafficking in children, child prostitution, and child pornography. A motion to approve an agreement on guilt and punishment is filed by the public prosecutor instead of an indictment or motion for punishment in cases where the accused person declares that he or she has committed the act he or she is being prosecuted for and makes an agreement on punishment with the public prosecutor. The agreement is subsequently approved by the court. However, in cases of trafficking in human beings, it is not permissible to conduct summary pre-trial proceedings and approve agreements on guilt and punishment, with regard to the seriousness of these crimes. Finally, the tables also summarise the numbers of persons convicted for criminal offences related to the sale of children, child prostitution, and child pornography. The last table indicates the numbers of victims of criminal offences related to the sale of children, child prostitution, and child pornography.

90. The data shown in individual tables always indicate the number of cases or persons that were in the given stage of criminal proceedings as of the end of the respective year. Due to the length of proceedings, they usually do not go through all stages within one year. Therefore, the numbers of persons in each stage do not allow us to make conclusions of the number of persons in the next stage. The data should therefore be evaluated separately within each table. For example, we can compare the numbers of indicted and convicted

[20] A new system of criminal statistics was introduced in 2016. The data shown in Annex no. 2 in the table summarising ascertained criminal offences were calculated according to the new system and therefore are not comparable with the other tables.

persons in individual years, but not the numbers of indicted and convicted persons in one year, as they are usually not the same persons. It should also be noted that the current system of data collection and recording does not allow us to follow the given case in time and see whether and when the given offender was convicted, etc., and compare these data dynamically in time. This will be possible in the new statistical system that is being developed.

91. The data show that in 2015 the number of persons criminally prosecuted for production and other disposal of child pornography increased to 148 as compared to 110 in 2014, and in 2016 it increased to 175 prosecuted persons. Also the number of persons prosecuted for abuse of a child for production of pornography increased from 20 cases in 2015 to 66 cases in 2016. The number of persons prosecuted for trafficking in human beings is around 20 each year. The number of persons prosecuted for seduction to sexual intercourse (conduct that includes child prostitution in persons between 15 and 18 years of age) in 2016 recorded a two-fold increase to 50 persons from 25 in the previous year. Commercial form of sexual abuse was identified in two cases in the period 2015 and 2016. The number of persons prosecuted for sexual abuse is generally higher, but it should be noted that it includes any sexual intercourse with persons under 15 years of age, not only intercourse for payment.

92. The data also show that the number of persons convicted for production and other disposal of child pornography increased slightly in 2016 as compared to 2015 and 2014 (from 61 convicted persons to 49). The number of persons convicted for abuse of a child for production of pornography is approximately 20 per year (23 convicted persons in 2016, 24 in 2015). The numbers of persons convicted for trafficking in human beings are generally low. In 2016 and 2015 there were three convicted persons per year. The number of persons convicted for seduction to sexual intercourse (conduct that includes child prostitution in persons between 15 and 18 years of age) is around 20 persons per year. Twenty-one persons were convicted for this criminal offence in 2016 and 18 in 2015. The number of motions for punishment for this criminal offence was one person per year in 2016 and 2015, and four persons per year in 2014 and 2013.

93. Annex no. 3 contains statistical data from the databases of the social and legal protection of children authorities. It specifies the numbers of cases dealt with by these authorities where there was a suspicion that the child was a victim of a child prostitution or child pornography. According to the law, these and other authorities must report any suspected criminal offences against children to the authorities involved in criminal proceedings, or ensure that such cases are reported in another manner. That is why the data recorded by the social and legal protection of children authorities are not entirely comparable.

94. The social and legal protection of children authorities fill in statistical records for this purpose. These records contain data disaggregated by sex, age and health condition of the child in whom a suspicion of abuse for child pornography or prostitution was ascertained or proved in the given year. Suspicion of these forms of abuse may be ascertained within the regular activities of the respective authority, or on the basis of a notification by another person or authority, or on the basis of information provided by the child itself. The numbers do not include cases where it was proved in the same year that the suspicion of child abuse for pornography or prostitution was unsubstantiated. The numbers of children at risk of prostitution include children suspected of being abused for production of child pornography or exposed to distribution and making accessible of child pornography. The number of children endangered by child prostitution includes children suspected of being abused for sexual purposes for payment or another compensation or benefit. This may involve the following forms of child prostitution: prostitution forced by a close person or a stranger, "voluntary" prostitution to earn a living for the child or his/her family, "voluntary" prostitution for money or another compensation or benefit, and "voluntary" prostitution practised "for fun" or for another reason. The child's consent (voluntariness) does not reduce the severity and harmfulness of such conduct and does not affect the criminal punishment imposed on the persons abusing such a child (the child itself cannot be prosecuted for prostitution).

## Annexes

| | |
|---|---|
| Annex no. 1: | Selected Provisions of the Criminal Code and Other Laws |
| Annex no 2: | Information about Criminal Offences Connected to Protocol |
| Annex no. 3: | Information Provided by the Social and Legal Protection of Children Authorities Connected with Children Endangered by Child Prostitution and Child Pornography |
| Annex no. 4: | Selected Parts of the National Strategy to Protect Children's Rights (2012) |
| Annex no. 5: | Selected Parts of the National Strategy to Combat Trafficking in Human Beings in the Czech Republic for the period 2016–2019 |
| Annex no. 6: | List of Extradition Treaties |
| Annex no. 7: | International Treaties on Police Cooperation |